IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12176 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DALVADI SHANKAR POPAT

Versus

GOVT OF GUJARAT AND OTHERS

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Appearance :
MR JD AJMERA for Petitioner
MR SP HASURKAR for RespondentS

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 06/10/2005

ORAL JUDGMENT

1. Cancellation of a revenue entry after a period of about 10 years is

the subject matter of the present petition.

2. On 18.6.1983, the petitioner had purchased land admeasuring 4 Acres 33 Gunthas of survey No. 1189 of village Kankavati, Taluka Dhangadhra, Dist. Surendreanagar from respondent No. 3 by way of a registered sale deed. On the basis of the aforesaid purchase, an entry was posted on 1.8.1983 in revenue record being entry No. 1886. The Collector took up the aforesaid entry No. 1886 into revision and came to the conclusion that entry No. 1886, which is certified on 12.11.1983 was in relation to 4 Acres 13 Gunthas and as against that, respondent No. 3 was owner of only 3 Acres and 13 Gunthas. Collector, Surendranagar passed an order dated 28.2.1994 vide which he came to the conclusion that the aforesaid entry No. 1886 is illegally sanctioned and posted in the revenue records as respondent No. 3 could not have sold larger area of land than what he owned, and on that basis, the said entry was cancelled. The petitioner carried the matter by way of Revision before the Secretary, Revenue, and the Deputy Secretary [Appeals] rejected the said revision against which the present petition is filed.

3. Mr. Ajmera, learned advocate for the petitioner submitted that the original entry was posted on the basis of a registered sale deed and since question of title is not required to be decided as revenue entry is only for fiscal purposes, the Collector was not right in taking suo motu revision after more than 11 years. Mr. Ajmera further submitted that the land was already put to Non-Agricultural Use and about 14 plots are sold to other parties since long. Mr. Ajmera also submitted that after purchase of the land, the competent authority granted permission

for Non-Agriculture use and thereafter the petitioner has developed the land. He further submitted that the order granting N.A. Permission was not taken in review, and in the circumstances, he submitted that the concerned entry was not required to be disturbed after more than 10 years.

4. Mr. Ajmera also relied on the judgment in STATE OF GUJARAT VS. RAGHAV NATHA, 10 GLR 992. While considering the question of "reasonable time" for taking any matter in revision, the Supreme Court held as under in paragraph 12:

> "12. The question arise whether the Commissioner can revise an order made under sec. 65 at any time. It is true that there is no period of limitation prescribed under sec. 211, but it seems to us plain that this power must be exercised in reasonable time and the length of the reasonable time must be determined by the facts of the case and the nature of the order which is being revised."

5. Mr. Hasurkar, on the other hand submitted that posting ore revenue entry will not confer title in favour of anyone as it will have relevance only for payment of government taxes and other fiscal purposes.

6. I have heard learned counsel for the parties at length.

7. It is required to be noted that none of the so called original owners have challenged the document of sale. There is nothing on record to show that any civil proceedings have been filed challenging the sale deed. After a considerable time, the entry was taken into

revision. Considering the fact that the sale deed was not challenged before a competent court by either respondent No.3 or by Koli Tapu Jiva in whose name 1 Acre 20 Gunthas land was shown. It is also required to be considered that NA Permission has been granted long ago and the same has not been taken into revision by the revenue authorities and considering the judgment in STATE OF GUJARAT VS. RAGHAV NATHA, 10 GLR 992, the Collector was not justified in disturbing the said entry after a considerable period especially when in between the land has been put in Non-Agricultural use.

8. In the circumstances, the aforesaid order at Annexures 'A' and 'B' are set aside. It is clarified that if Koli Tapu Jiva or any one else has got any grievance about the title of the land, and if any civil proceedings are initiated in this behalf, posting of the revenue entry will not affect any right, title or interest and such proceedings, if any, will be decided on its own merit without being influenced by the order passed in this petition, as it is a well settled position that revenue entry do not confer any title and such entry will have relevance only for payment of government taxes and other fiscal purposes. The impugned order in this petition is set aside only on the ground of unreasonable delay on the part of the revisional authority in taking the matter into suo motu revision. It is also required to be noted that posting of such entry will have no basis or relevance qua dispute of title, if any. If any person has any right over the land in dispute, such person can always resort to civil proceedings and the court below can consider it on the basis of evidence produced before it.

9. In the result, this petition is allowed. The orders as Annexures 'A'

and 'B' are set aside. Entry No. 1886 is directed to be restored. Rule made absolute accordingly, with no order as to costs.

[P. B. MAJMUDAR, J.]

mathew